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ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**IN THE  
COURT OF APPEALS OF INDIANA**

DERICK WALKER, )  
)  
Appellant-Defendant, )  
)  
vs. ) No. 49A04-0709-CR-515  
)  
STATE OF INDIANA, )  
)  
Appellee-Plaintiff. )

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Tanya Walton Pratt, Judge  
Cause No. 49G01-0603-FC-042574

**April 24, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant Derick Walker appeals his conviction for Intimidation,<sup>1</sup> a class D felony, arguing that the evidence is insufficient. Finding sufficient evidence to support Walker's conviction, we affirm.

### FACTS

In February 2006, seventeen-year-old G.W. was seeking employment at an Indianapolis restaurant. She filled out an application and the manager told her to return the following morning for an interview. When G.W. returned as instructed, Walker, an employee of the restaurant, opened the door for her, commented on her hairstyle, and stared at her. The manager did not show up to meet G.W., so she left her contact information, including the cell phone number of her sister, Lisa Brooks. Walker told G.W. that he would pass her contact information on to the manager.

The following day, Brooks received a phone call from Walker, who identified himself as "Manny" and asked to speak to G.W. Tr. p. 11, 25. After Walker called Brooks's phone repeatedly, Brooks and G.W. both informed him that G.W. did not wish to speak to him and that he should stop calling. Walker continued to place calls to Brooks's cell phone, asking to speak to G.W. and leaving messages if no one answered. Walker left one message in which he stated, "I'm gonna chop your ass up. I'm a star." Id. at 29.

Eventually, Brooks and G.W. contacted the authorities and provided them with the telephone number that appeared on Brooks's caller ID when Walker telephoned. An

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<sup>1</sup> Ind. Code § 35-43-4-2.

investigation revealed that the telephone number matched the one Walker had provided to his employer. An officer contacted Walker and issued him a warning to cease calling Brooks. Minutes later, Brooks telephoned the officer to inform him that Walker had just called again. Walker was subsequently arrested on an outstanding warrant and when interviewed by law enforcement about his calls to Brooks's phone, he said, "Man, I was just trying to talk to the girl." Id. at 43.

On March 9, 2006, the State charged Walker with class C felony stalking and class D felony intimidation. Following a bench trial, on June 29, 2006, the trial court found Walker not guilty of stalking and guilty of intimidation. On June 30, 2006, the trial court sentenced Walker to three years, with one year suspended to probation. Walker now appeals.

### DISCUSSION AND DECISION

Walker's sole argument on appeal is that the evidence is insufficient to support his conviction. In reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor assess witness credibility. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). We will consider only the evidence and all inferences that may be drawn therefrom that support the verdict. Id. We will affirm unless no rational factfinder could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000).

To convict Walker of class D felony intimidation, the State was required to prove beyond a reasonable doubt that he communicated a threat to commit a forcible felony with the intent that G.W. engage in conduct against her will. I.C. § 35-45-2-1. The State

presented evidence that Walker telephoned Brooks's cell phone repeatedly in an endeavor to speak to G.W. He ignored requests to stop calling and left numerous messages, including one in which he said "I'm gonna chop your ass up. I'm a star." Tr. p. 29. Walker later explained to police officers that "I was just trying to talk to the girl." Id. at 43. This evidence and the surrounding circumstances establish that Walker threatened to "chop" G.W. up with the intent of forcing her to engage in conduct against her will; specifically, communicating and establishing a dialogue with him. Walker's arguments to the contrary amount to a request that we reweigh the evidence, a practice in which we do not engage when evaluating the sufficiency of the evidence. In sum, we find that the evidence and the inferences that may be drawn therefrom are sufficient to support Walker's conviction for intimidation.

The judgment of the trial court is affirmed.

RILEY, J., and ROBB, J., concur.